

**UNITED STATES DISTRICT COURT**

**MIDDLE DISTRICT OF FLORIDA**



**CLERK'S OFFICE**

**GUIDE TO SERVICES AND PROCEDURES**

## **A BRIEF GUIDE TO SERVICES AND PROCEDURES**

### **PART ONE: CIVIL CASE INFORMATION**

#### **I FILING FEDERAL CIVIL SUITS:**

- A. **Fees** (28 U.S.C. 1914) - Cash, business or personal check, or money order made payable to Clerk, U.S. District Court for each case at the time of opening the case. (currently \$150.00 for civil actions and \$5.00 for habeas proceedings.)
- B. **Civil Cover Sheet, Form JS-44** [Local Rule 1.05(e)] - The Civil Cover Sheet, Form JS-44, must be completed in its entirety and submitted with the complaint. An original signature as well as Florida Bar number must be on both the civil cover sheet and the complaint. The civil cover sheet does not replace or supplement the filing and service of pleadings or other papers. Instructions for completion of this form are on the reverse of the form. Particular care should be given to the following:
1. **County of Residence:** This is frequently omitted and should be completed for the first named plaintiff and defendant.
  2. **Citizenship of Principal Parties:** (Should be completed only when diversity is the basis of jurisdiction.) This section requires only one X for first plaintiff and one X for first defendant. Note: Corporations should not be marked as citizens.
  3. **Cause of Action/Nature of Suit:** Do not cite the jurisdictional statute under the Cause of Action. This section requires the U.S. Civil Statute under which you are filing and a brief statement of cause. **Example: 15 U.S.C. 1051 - Trademark Infringement.** (Statements such as "Social Security Disability" are unacceptable.) Diversity cases should always be cited under 28 USC 1332 (nature of suit will vary). Only one box should be checked in the Nature of Suit section.
  4. **Dollar Demand:** This is frequently omitted, but required if a specific dollar amount appears in the complaint.
  5. **Jury Demand:** Check "Yes" box if jury trial is demanded in the complaint. (See, however, Rule 38, Fed.R.Civ.P.) Also, remember that the title of the pleading should read "and Demand for Jury Trial," pursuant to Local Rule 1.06(a).
  6. **Related Cases:** Reference pending cases.

7. Date and Signature of Attorney: The JS-44 Cover Sheet must bear the original signature of the attorney submitting the form and assuring its accuracy and completion.
- C. **Complaint** (8 ½" x 11" paper, double spaced. Local Rules 1.05 - 1.06) - Only the original complaint is required to be filed with the Court. The complaint must be signed by a member of the Bar of this Court with designation "Trial Counsel" by the name of trial counsel. The typed name of counsel with complete address, telephone number and Florida Bar number must appear in the signature block.
- D. **Subsequent case papers** (Local Rule 1.05 - 8 ½" x 11" paper, double spaced) - Each case paper filed with this Court must contain the following:
1. The properly titled district and division.
  2. A brief style of the case.
  3. The entire case number including the judge number. The judge numbers are as follows:

**District**

**Tampa Division:**

17 - Elizabeth A. Kovachevich  
 23 - Steven D. Merryday  
 24 - Susan C. Bucklew  
 25 - Henry Lee Adams, Jr.  
 26 - Richard A. Lazzara  
 15 - William J. Castagna

**Orlando Division:**

18 - G. Kendall Sharp  
 19 - Patricia C. Fawsett  
 22 - Anne C. Conway  
 06 - George C. Young

**Jacksonville Division:**

21 - Ralph W. Nimmons  
 20 - Harvey E. Schlesinger  
 12 - Howell W. Melton  
 16 - John H. Moore, II

**Ocala Division:**

10 - Wm Terrell Hodges

**Ft. Myers Division:**

**Magistrate**

A - Mark A. Pizzo  
 B - Thomas G. Wilson  
 E - Thomas B. McCoun, III  
 C - Elizabeth A. Jenkins  
 F - Mary S. Scriven

A - Karla A. Spaulding  
 B - David A. Baker  
 C - James G. Glazebrook

A - Howard T. Snyder  
 B - John E. Steele  
 C - Timothy J. Corrigan

D - George T. Swartz

**Only original pleadings are required.** Courtesy copies are not accepted by the Clerk's Office unless specifically requested by the Court. All pleadings must have the original signature of the attorney.

- E. **Summons and Service** (Fed.R.Civ.P. 4 - Local Rule 1.07) - Preparation of the summons is the responsibility of counsel or pro se party. An original and one copy of the summons are needed for each defendant. Defendants have 20 days to answer from the date of service of the complaint; U.S. government has 60 days to answer. More copies may be required if:
1. Service is to be made through the Commissioner of Insurance (when an insurance company is being sued - Florida Statute 624.422 and 423). The original and two copies are mailed to the Insurance Commissioner for service. The Insurance Commissioner returns the original served summons to the attorney, forwards one copy to the insurance company being sued, and retains one copy in the Department of Insurance - Processing Section.
  2. The United States is a defendant. Plaintiff must provide an original and sufficient copies to satisfy the requirements of Fed.R.Civ.P. 4(I).
  3. You can also elect to send out a request for waiver of service to the defendants. This is done by mail and the defendant has 30 days to return the waiver. If the defendant does waive service, the required time to answer is 60 days after the date in which the request for waiver of service was sent. Waiver of service forms are available in the Clerk's Office.

#### **Subpoenas in Civil Cases**

Pursuant to Fed.R.Civ.P.45, it is no longer necessary that subpoenas be issued by the clerk. Although the clerk still has authority to do so, a subpoena may also be issued by an attorney as an officer of the court. Attorneys are authorized to issue subpoenas in the name of any court in which they are authorized to practice. In the case of a deposition or a production of documents taking place in another district, attorneys may issue subpoenas in the name of the court where the deposition or production is to take place. The attorney is not required to be a member of the bar or admitted pro hac vice in the district in whose name the subpoena is issued, as long as the deposition or production pertains to a primary action in a court in which the attorney is authorized to practice.

- F. **Service of Process** (Fed.R.Civ.P. 4) - Marshal's Form 285 is required for each defendant if service of process is made by the U.S. Marshal. See Fed.R.Civ.P. 4(c) which provides that service by the Marshal may be requested on behalf of the U.S. Government or pursuant to a Court Order. Form 285 may be obtained from the U.S. Marshal's Office.

G. **Miscellaneous Civil Cases** (28 U.S.C. 1963) - A Miscellaneous Case is a case paper filed with the District Court that is not a criminal or civil case. The fee for filing a miscellaneous case is \$20. The most common type of miscellaneous case filing is Registration of Foreign Judgments.

H. **Motions and Memoranda** (Local Rule 3.01) - Some of the most common problems with the filing of Motions and Memorandums are addressed in the Local Rules. Please carefully review Local Rules 3.01(b) and (c).

Only one written brief in opposition for each motion shall be filed. No other brief or memorandum to any such motion shall be filed with the court unless requested by the court or leave to file such memorandum has been issued. Without prior permission from the court, no party shall file any brief or memorandum in excess of 20 pages. When filing a motion for leave to file a memorandum in excess of 20 pages, DO NOT attach the proposed memorandum.

If requesting a pleading to be filed in camera/under seal, a motion for leave to file under seal must accompany this pleading.

I. **Discovery** (Local Rule 3.03) - Some of the most common problems with the filing of discovery materials are addressed in the Local Rules. Please carefully review Local Rules 3.03(c), (d), and (e). As a matter of course, discovery should not be filed with the district court, except in consideration of a Motion to Compel, Motion for Summary Judgment or other similar proceedings. Requests for production, requests for admissions and answers to interrogatories should not be filed in the District Court. Matters disclosed pursuant to Federal Rule 26 are not accepted for filing pursuant to Local Rule 3.03(e) unless ordered by the court.

J. **Case Management** (Local Rule 3.05) - Please be familiar with the provisions regarding case management included in this Local Rule. Once a case is filed, the courtroom deputy for the district judge will designate the case for future management on one of three tracks.

1. Track 1 cases include such filings as prisoner civil rights, habeas corpus, bankruptcy cases, and student loans.
2. Track 2 consists of non-complex actions which will require a jury or non-jury trial.
3. Track 3 cases include cases involving class action or antitrust claims, securities litigation, mass disaster or other complex torts.

The plaintiff is responsible for servicing the Notice of Track Designation upon all parties; however, if the case is a removal, then it is the defendant that serves the notice. Within 60 days after service of the complaint upon any defendant,

or the first appearance for any defendant, counsel and any unrepresented party shall meet for the purpose of preparing and filing a Case Management report for cases designated under track 2 or 3. The Case Management Report must be filed within 10 days after that meeting. An Order to Show Cause will be issued if this deadline is not adhered to. Upon receipt of the Case Management Report, the court will either schedule a preliminary pretrial conference (if one is desired by the parties), or enter a Case Management and Scheduling Order setting the discovery deadlines, pretrial and trial.

- K     **Writ of Execution/Garnishment** (Fed R.Civ.P. 69): When requesting the Clerk to issue a Writ of Execution, you will need a proposed writ form for issuance and a certified copy of the judgment. Writ of Execution forms are available from the Clerk's Office. When requesting the Clerk to issue a Writ of Garnishment, you will need a proposed order for writ issuance, a Motion to Issue Writ of Garnishment, and a certified copy of the judgment. If approved by the Court, the original Writ of Execution/Garnishment and a certified copy of the judgment are forwarded to the U.S. Marshal's Service if accompanied by a completed 285 Form (Process Receipt and Return) which may be obtained from the Clerk's Office or the Marshal's Service. Fees to the Marshal's Service on the 285 Form should be paid in advance to the Marshals' Service. Services by specially appointed server must be requested in a motion for the Court's ruling. If the appropriate paperwork is not provided, the writ will be returned to the requesting party.

## II     **PLACE OF FILING:** (Local Rule 1.02)

All civil proceedings of any kind shall be instituted in that Division encompassing the county or counties having the greatest nexus with the cause, giving due regard to the place where the claim arose and the residence or principal place of business of the parties. Please consult Local Rule 1.02(b) for a listing of the counties which comprise each Division.

## III    **OBTAINING CIVIL CASE INFORMATION:**

- A.     **Initial Case Filing** - Assistance regarding initial case filing should be sought from the Intake Clerk for each Division. The Intake Clerk can also be helpful regarding miscellaneous procedures such as filing foreign judgments, issuance of subpoenas and providing forms approved for use by the Court.
- B.     **Case Numbering System** - EXAMPLE 6:99-cv-202-Orl-18B  
6=Orlando, 99=year, cv=civil case or cr=criminal case, 202=case #,  
Orl=Orlando Division, 18=Judge Sharp, B=Magistrate Judge Baker

Divisional codes within this District= T (Tampa), OC (Ocala), J (Jacksonville),  
and FtM (Ft. Myers)

Office code numbers = Tampa (8), Ocala (5), Jacksonville (3), Ft. Myers (2)

- C. **Case Scheduling Information** - The courtroom deputy is responsible for case management and can provide information as to hearing and trial dates. Since courtroom deputies are frequently in Court, they have answering machines for receiving messages at all times during the business day.
- D. **Court Reporting** - Transcription of testimony is the responsibility of the Court Reporter. Counsel should make arrangements regarding preparation of transcripts, delivery, and fees with the court reporter. Telephone numbers for official court reporters are as follows:

Marie Splane - 904/356-1985 (Judge Nimmons)  
Evelyn Alderman - 904/358-1806 (Judge Schlesinger)  
Tony Rolland - 407/648-2288 (Judge Sharp)  
Emery Tompkins - 407/648-1639 (Judge Fawsett)  
Rita Meyer - 407/648-8434 (Judge Conway)  
Dennis Miracle - 813/301-5699 (Chief Judge Kovachevich)  
Carol Jacobs - 813/301-5024 (Judge Merryday)  
Paul Spangler - 813/301-5898 (Judge Bucklew)  
Kathleen P. Walden - 813/301-5252 (Judge Adams)  
Claudia Fry - 813/301-5575 (Judge Lazzara)

Copies of transcripts filed with the Court can be obtained through the Clerk's Office. Each District Judge has an official court reporter who routinely records proceedings.

- E. **Financial** - Information regarding fines, restitutions, special assessments, deposits with the Court, and other financial matters can be obtained from Ms. Barbara Henrique at 904/549-1924 or the finance clerk in each division.

#### IV **INSTRUCTIONS FOR APPEALS:**

- A. **Notice of Appeal** (Fed.R.App.P. 3) - The original Notice of Appeal and a sufficient number of copies to allow the clerk to comply with FRAP 3(d) should be filed with the District Court. Service can be made by the party appealing the case. Once the appeal is filed, the deputy clerk will send out the Civil Appeals Statement Form and the Eleventh Circuit Transcript Information Form to order the transcript if one is needed. Regardless of whether one is needed or not, this document must be returned to the Court so it can be entered on the docket. The clerk will also provide counsel with the civil appeal statement form which is to be completed and filed directly with the 11<sup>th</sup> Circuit. The Clerk's Office is responsible for transmitting the appeal to the 11<sup>th</sup> Circuit, as well as the entire record when the Court of Appeals requests it.
- B. **Filing Fee** (District Court and Appellate Court) - Checks should be made payable to the Clerk, U.S. District Court, in the amount of \$105 for each appeal.

- C. **Supersedeas Bond** (if required) - Only the original Supersedeas Bond is to be filed with the District Court after first having been set and approved by the Court.
- D. **Ordering Appeal Transcripts** - The Eleventh Circuit Transcript Information Form is mailed by the Clerk's Office to the appellant after the Notice of Appeal is filed. The appellant must complete the Transcript Information Form within 10 days. Copies of the Transcript Information Form should be distributed as designated on the bottom of the form. If funding is to come from CJA, (see Section II of Criminal Case Procedures) counsel shall prepare CJA-24, and submit to the Court for approval.

**V REMOVAL OF CASES FROM STATE COURT TO FEDERAL COURT:**

- A. **Notice of Removal** (28 U.S.C. 1446, Local Rule 4.02) - File original Notice only with legible copies of the entire State Court record; the date of filing the complaint in State Court, and the State Court case number must be provided. The Notice must be signed by counsel and accompanied by a civil cover sheet.
- B. **Civil Cover Sheet, JS-44** [Local Rule 1.05(e)] - Also required in removal actions.
- C. **Filing Fee** - The filing fee is \$150.00.

**VI TRIAL EXHIBITS:**

Local Rule 3.07 requires preparation of Exhibit Lists and Tabs. These may be obtained in the Clerk's Office in each Division.

**VII ALTERNATE RESOLUTION PROGRAMS:**

The Court has implemented a Court Annexed Arbitration Program and a Federal Mediation Program as alternate resolutions for disposition of civil cases in the Middle District. These programs are codified in Chapters Eight and Nine of the Local Rules of this Court. Handouts which contain information and application forms relative to the arbitration and mediation programs may be obtained from the Clerk's Office.

**PART TWO: CRIMINAL CASE INFORMATION**

**I FILING CASE PAPERS:** [Also see Section I(D)]

- A. **Motions and Memoranda** - See Section I(I).
- B. **Obtaining Criminal Case Information** - See Section III.



- C. **Case Scheduling Information** - See Section III (C), where the trial term during which a case is to be tried has not yet commenced, the criminal docket clerk can provide information as to criminal hearing and trial dates.
- D. **Transcription of Notes** - See Section III(D).
- E. **In Camera Case Papers** - A Motion to Seal and a proposed Order must be submitted by counsel.
- F. **Grand Jury Pleadings** - Grand Jury pleadings must be filed with the Clerk's Office. The Clerk's Office will alert the Judge of the filing. All Grand Jury proceedings are considered In Camera by the Court and do not require a motion or order to seal.
- G. **Orders** - All orders should be docketed and mailed the same day they are filed. It is not the policy of this Court to read the contents of an Order over the phone due to the amount of time involved in such a practice and the possibility of a misunderstanding. Exceptions to this policy may be made only as directed by the Court.
- H. **Interpreters** - Contact the intake section, magistrate judge's courtroom deputy, or interpreter coordinator to obtain information about use of interpreters in court proceedings.
- I. **Bonds** - Procedures for obtaining return of Bond Money and other collateral may be obtained from the Clerk's Office.
- J. **Criminal Subpoenas** must be issued by the Clerk under the seal of the Court pursuant to F.R.Cr.P. 17(a). Court appointed counsel under the Criminal Justice Act, representing indigent defendants, should refer to F.R.Cr.P. 17(b) and 28 USC 1825 for proper procedures. Witness fees, travel costs, and expenses for service of subpoenas on fact witnesses are not payable out of the Criminal Justice Act appropriation. Retained counsel should refer to F.R.Cr.P. 17(b). Blank and issued subpoenas are available from the Clerk's Office.

## II **CRIMINAL JUSTICE ACT PAYMENT VOUCHERS:**

- A. **CJA 20 Appointment of and Authority to Pay Court Appointed Counsel** - Contact the Clerk's Office for additional information.
- B. **CJA 21 - Authorization and Voucher for Expert and Other Services** - Contact the Clerk's Office for additional information.
- C. **CJA 24 - Authorization and Voucher for Payment of Transcript** - Contact the Clerk's Office to obtain CJA 24 forms. Counsel should fill out the top portion of the CJA 24 form and submit to the Clerk's Office for the judge's signature.

After the judge has signed the top portion, the court reporter will prepare the transcript, complete the remaining portion of the CJA 24 form, and return to the Clerk's Office. The Clerk's Office will submit the form to the judge for approval. Once the form has been approved, the Clerk's Office will process payment to the court reporter. If counsel requests additional copies, the court reporter will furnish transcript copies directly to counsel.

### **PART THREE: OTHER GENERAL INFORMATION:**

- I. **Public Hours:** The Clerk's Office is open from 8:30 a.m. to 4:00 Monday through Friday except federal holidays. The Tampa Clerk's Office hours are 9:00-4:30.
- II. **After Hours Depository Box:** There is one box in each Division. Contact the applicable division for box location and available hours. Do not file emergency pleadings, in camera/sealed pleadings, bankruptcy pleadings in this box.
- III. **PACER,** a public access system to our docket reports, is available 24 hours a day which provides access to Appellate Court, District Court and Bankruptcy Court case information at \$.60 per minute. Searches are made by party or case number. Call 1-800-676-6856 for information on signing up for this service.
- IV. **Emergency Matters:** Emergencies may arise outside of normal business hours. Such emergencies may include, but are not limited to, applications for injunctive relief, TRO's, applications for issuance of warrants for arrest of vessels, capital cases. To determine what is an emergency, consider whether or not the matter requires a judge's immediate attention. If your answer is yes and this cannot wait until the next business day, please call the main intake number and you will be directed on how to proceed.

In any emergency, whether or not it requires a judge's immediate attention or can wait until the next business day, make sure the "emergency" language is clear in the heading of the pleading so that the docket clerks can clearly see and the document will be docketed immediately.

- V. **Copy Work:** If you need copies of pleadings, it can be done by giving the Clerk's Office staff 24-48 hours notice and prepayment of .50 cents per page. There is a copy machine at the Intake Office, which can be used by the public to make copies, for a fee of .50 cents per page.
- VI. **Local Rules:** Local Rules are available at the Intake Office, either on disk in WordPerfect 5.1 format or hard copy, for \$3.00. By mail, you must provide a 9 ½" x 12" or larger self-addressed stamped envelope with \$3.20 postage on the envelope. They are also available on our Website at [www.flmd.uscourts.gov](http://www.flmd.uscourts.gov) and can be downloaded at no charge.

- VII. **Attorney Admissions:** Ceremonies are held monthly in each division. To obtain an application, you can pick one up at the Intake Office, or download from the Internet at [www.flmd.uscourts.gov](http://www.flmd.uscourts.gov). You must be a member of the Florida Bar. Fee for admission is \$50.00 and is to be paid at the ceremony. Do not submit the fee with your application.
- VIII. **Public Access Computers:** Research of the Court's public records may be done during business hours using the computer(s) available in the attorney viewing area of the Clerk's Office. For older cases, microfiche is available in each Division.
- IX. **Federal Records Center:** Records are retired to the FRC in Atlanta after approximately two years. They may be retrieved for a fee of \$25.00. Alternatively, the FRC offers a fax and copy service on site.

**OFFICE OF THE CLERK - DIVISION TELEPHONE NUMBERS:**

Jacksonville: 904/549-1900  
Ocala: 352/369-4860  
Orlando: 407/835-4200  
Tampa: 813/301-5400  
Ft. Myers: 941/461-2000